

REMARKS

Claims 22-81 are pending in the Application and all have been rejected in the Office action mailed February 1, 2010. Claims 22, 28, 29, 36, 43, 47, 51 and 60 are independent claims. Claims 23-27 and 74, claim 75, claims 30-35 and 76, claims 37-42 and 77, claims 44-46 and 78, claims 48-50 and 79, claims 52-59 and 80, and claims 61-73 and 81 depend, respectively, from independent claims 22, 28, 29, 36, 43, 47, 51, and 60.

The Applicants respectfully request reconsideration of pending claims 22-81, in light of the following remarks.

The Applicants note that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, USPTO personnel should state all reasons and bases for rejecting claims in the first Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, USPTO personnel should indicate how rejections may be overcome and how problems may be resolved. **A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.**

M.P.E.P. § 2106(II) (emphasis added).

As such, the Applicants assume, based on the goals of patent examination noted above, that the current Office Action sets forth “all reasons and bases” for rejecting the claims.

Objection to the Specification

The Office objected to the Specification stating, in part, at page 11:

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required (NO NEW MATTER MUST BE ADDED).

Claim 22 recites, "a packet is a unit of information transmitted as a whole from one device to another over the network".

Examiner was able to find "a packet" in the 321 pages specification; however, examiner was unable to find a definition of a packet "a unit of information transmitted as a whole from one device to another over the network" within 321 pages of the specification.

Thus, the Examiner is objecting to the alleged lack of support in the Specification for the language of claims 22, 28, 29, 36, 43, 47, 51, and 60 that reads "a packet is a unit of information transmitted as a whole from one device to another over the network."

Applicants respectfully submit that the independent claims of the Application were amended to include the phrase "a packet is a unit of information transmitted as a whole from one device to another over the network," in order to address a mistaken understanding by the Office that the terms "packet" and "frame" are equivalent and interchangeable.

Applicants respectfully submit that the Office seems to recognize that "a packet is a unit of information transmitted as a whole from one device to another over [a] network" was well-known by those of ordinary skill in the relevant art at the time the invention was made. See Office action at page 17, lines 10-19.

Applicants respectfully submit that M.P.E.P. §2182 states, in part, "[a] patent specification need not teach, and preferably omits, what is well known in the art. Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1384, 231 USPQ 81, 94

(Fed. Cir. 1986)." Therefore, Applicants respectfully submit that Applicants' specification is not required to define the term "packet," as it is being used in the claims in a manner consistent which is with what is well-known to those of ordinary skill in the relevant art at the time of the invention.

Finally, but not least significantly, the Office did not object to the inclusion of similarly clarifying language in the independent claims of Application Serial No. 10/759,969, which has the same Specification and Drawings as the present application, and which was allowed April 13, 2010 by the examiner of record in the present application.

Therefore, for at least the reasons set forth above, Applicants respectfully submit that the language at issue in Applicants' claims 22, 28, 29, 36, 43, 47, 51, and 60, namely, "a packet is a unit of information transmitted as a whole from one device to another over the network" need not explicitly appear in Applicants' Specification, as it was well-known to those of ordinary skill in the relevant art at the time of the invention, as acknowledged by the Office.

Rejections of Claims

Claims 22-81 were rejected under 35 U.S.C. §112, first paragraph.

Claims 29-42, 76, and 77 were rejected under 35 U.S.C. 101.

Claims 22, 25, 26, 28, 29, 32-34, 36, 39, 40, 41, 47, 50, and 57-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken (WO 91/08629) in view of Richter, et al. (US 6,104,706, hereinafter "Richter'706"). Claims 43 and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706 and Harrison (US 5,796,727). Claims 27, 35, 42, 51, and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706 and Weaver et al. (US 5,956,673, hereinafter "Weaver"). Claims 23, 24, 30, 31, 37, 38, 48, and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, and Perkins (US 5,159,592). Claims 44 and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Harrison, and

Perkins. Claims 52 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Weaver, and Perkins. Claims 55 and 56 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter, and Cripps (US 5,838,730). Claims 74-77 and 709 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter, and Dezonno (US 5,991,394). Claim 78 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter, Harrison, and Dezonno. Claim 80 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter, Weaver, and Dezonno.

In addition, the Office rejected claims 22, 27-29, 32, 35, 36, 39, 42, 47, 50, 51, and 54 under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Richter'706. Claims 23, 24, 30, 31, 37, 38, 48, 49, 52, and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Richter'706 and Perkins. Claims 43 and 46 were rejected under 35 U.S.C. §103(a) over Weaver, Richter'706, and Harrison. Claims 44 and 45 were rejected under 35 U.S.C. §103(a) over Weaver, Richter'706, Harrison, and Perkins. Claims 25, 33, 40, and 55-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Richter'706 and Cripps. Claims 26, 34, and 41 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Richter'706 and Honig et al. (US 5,481,533, hereinafter "Honig").

Applicants respectfully note that all of the rejections are for alleged reasons of obviousness.

Applicants first review the requirements for an obviousness rejection. According to M.P.E.P. §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." M.P.E.P. §2142 further states that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." As recognized in M.P.E.P. §2142, "[t]he Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), 82 USPQ2d 1385, 1396 noted that the

analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." In addition, the Federal Circuit has made clear that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 127 S. Ct. 1727 (2007), 82 USPQ2d at 1396.

In addition, as noted in the Manual of Patent Examining Procedure (Revision 7, July 2008), "[t]o establish *prima facie* obviousness of a claimed invention, **all the claim limitations** must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." See MPEP at 2143.03. Further, "**[a]ll words in a claim** must be considered in judging the patentability of that claim against the prior art.' *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA)." See *id.*

Thus, the law is clear that words of a claim cannot be merely disregarded during examination. Instead, all the words in a claim must be considered during the examination process.

Applicants respectfully submit that the Office action has failed to establish a *prima facie* case of obviousness with respect to any of claims 22-81, in accordance with M.P.E.P. §2142 and M.P.E.P. §2143.03, and respectfully traverse the rejections for the reasons set forth during prosecution, and those that follow.

I. Claims 22-81 Are In Compliance With 35 U.S.C. §112, 1st ¶

Claims 22-81 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse the rejection.

The Office rejects claims 22, 28, 29, 36, 43, 47, 51, and 60, and their respective dependent claims, stating at page 12, "...the originally specification fails to support a wireless device comprising comparing a destination address to a database having at least one entry comprising user defined call routing information and at least one

associated destination address, the database for use in voice ...and the database as newly added by the applicant.” Applicants respectfully disagree.

Applicants respectfully submit that support for this aspect of Applicants’ claims may be found, at least, at FIG. 56a and page 271, line 12 to page 290 line 9, which describes conversion and call processing circuitry of “computer card 5601” that plugs into a “host device” such as an “access device.” *Id.* at page 271, lines 12-17. Applicants’ Specification discloses that the “network” of FIG. 55a comprises a “wireless network of access devices 5505, 5507, 5509, 5511 and 5513.” *Id.* at page 254, lines 15-17. Thus, Applicants’ disclosure teaches that “access devices 5505, 5507, 5509, 5511, and 5513” accept “computer card 5601.” Applicants’ disclosure teaches that software in the “host device” permits a user to add or modify various telephone numbers of remote sites with cross-referenced internet addresses in a cross-reference database. *Id.* at page 272, lines 10-14. Applicants’ disclosure further teaches that the “host device” of “computer card 5601” compares a received telephone number with the cross reference database it stores. *Id.* at page 274, lines 1-2. If the number is not found, a user may modify the database. *Id.* at page 274, lines 8-11. If an entry for the number is found in the cross-reference database, a voice call is routed according to the associated entry in the cross-reference database. *Id.* at page 274, line 11 to page 278, line 22.

Therefore, Applicants respectfully submit that, based at least upon the above, Applicants’ original specification does provide adequate support for a “wireless device comprising comparing a destination address to a database having at least one entry comprising user defined call routing information and at least one associated destination address, the database for use in voice ...and the database,” contrary to the assertion of the Office, and that claims 22, 28, 29, 36, 43, 47, 51, and 60, and therefore their respective dependent claims, are in compliance with 35 U.S.C. §112, first paragraph. Accordingly, Applicants respectfully request that the rejection of claims 22-81 under 35 U.S.C. §112, first paragraph, be reconsidered and withdrawn.

II. Rejection Of Claims 29-42, 76, And 77 Under 35 U.S.C. §101.

Claims 29-42, 76, and 77 were rejected under 35 U.S.C. §101. Applicants respectfully traverse the rejection.

With regard to independent claims 29 and 36, Applicants respectfully submit that the Office rejected claims 29 and 36 under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention. Dependent claims 30-35, 37-42, 76, and 77 were rejected as depending from rejected claims 29 and 36. Applicants have amended claims 29 and 36 as shown above so that claims 29 and 36 now recite, *inter alia*, “a communication device for processing voice for a communication network,” are therefore clearly drawn to a method of operating a particular apparatus, and therefore lie within one of the four statutory categories of invention. Applicants respectfully submit that by these amendments the rejections of claims 29 and 36 are overcome. Accordingly, Applicants respectfully request that the rejections of independent claims 29 and 36, and their respective dependent claims, be reconsidered and withdrawn.

III. The Proposed Combination Of Berken And Richter'706 Does Not Render Claims 22, 25, 26, 28, 29, 32-34, 36, 39, 40, 41, 47, 50, And 57-59 Unpatentable

Claims 22, 25, 26, 28, 29, 32-34, 36, 39, 40, 41, 47, 50, and 57-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706. Applicants respectfully traverse the rejection.

With regard to independent claim 22, Applicants respectfully submit that claim 22 recites, in part, “a database having at least one entry comprising user defined call routing information and at least one associated destination address, the database for use in voice call routing to cause delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network according to a destination address of the called party and the database.” Independent claims 28, 29, 36, and 47 recite similar language. Applicants respectfully submit that the cited art does not teach, suggest, or disclose all aspects of Applicants’ claim 22.

The Office action rejects this aspect of claim 22 at pages 16-17, stating that Berken discloses:

a database (see FIG. 1C, memory 217; see page 6, line 5-9; see page 7, line 15-19), and the use in voice call routing to cause delivery of voice to a called party (see FIG. 5, 6, using control information for routing voice call to the called system; see page 9, line 1-10; see page 10, line 17-30) by a user selected one of a circuit switched network and a packet-based network (see FIG. 1A, 6, by a wireless system's request to select either circuit switch path for voice call to PSTN 151 (i.e. circuit switched network) or a packet switch path to Ethernet LAN (i.e. packet switch network)) according to a information (see FIG. 5, 6, according to a request; see page 10, lines 25 to col. 11, lines 5; see page 9, lines 15-25).

(emphasis in original)

As seen above, the Office asserts that “memory 217” of FIG. 1C of Berken teaches a “database,” and cites Berken at page 6, lines 5-9 and page 7, lines 15-19 as providing support. The cited portion of Berken at page 6, lines 5-9, however, states “...expand and filter the signal and send it to the telephone 127. The software contained in the processor memory 217 is executed by the control processor 215 to control all the functions of the user module 103.” This portion of Berken teaches only that “processor memory 217” contains “software” that is “executed by control processor 215.” No mention is made of “memory 217” comprising any sort of “database.” Further, although memory may be used to store contents of a database, a memory does not necessarily comprise a “database,” and therefore does not inherently comprise a “database.” See M.P.E.P. §2112. Further, even if Applicants were to agree that “memory 217” comprised a “database,” **which Applicants do not**, Berken fails to teach or suggest that “memory 217” comprises a “database” having “at least one entry comprising user defined call routing information and at least one associated destination address.” Applicants respectfully submit that the Office has not shown where Berken teaches, suggests, or discloses that “memory 217” contains anything that is “user defined.”

The Office also cites page 7, lines 15-19 of Berken as providing support regarding a “database.” That cited portion of Berken states “[t]he software contained in the processor memory 197 is executed by the control processor 195 to control all the functions of the Ethernet interface unit 143, token ring interface unit 145, 3270 interface unit 147, character data interface unit 149.” This cited portion of Berken states that “processor memory 197” contains “software” executed by “control processor 195,” as in the case of “memory 217.” Again, Berken at page 7, lines 15-19 is silent with respect to a “database.” Further, as above, “memory” does not inherently comprise a “database.” Indeed, the entirety of Berken fails to disclose any mention of a “database.” In addition, even if Applicants were to agree that “processor memory 197” comprised a “database,” **which Applicants do not**, Berken fails to provide any teaching or suggestion that “processor memory 197” comprises a “database” having “at least one entry comprising user defined call routing information and at least one associated destination address.” Therefore, Applicants respectfully submit that the cited portion of Berken at page 7, lines 15-19 fails to teach, suggest, or disclose a “database.” In addition, Berken fails to teach, suggest, or disclose that “processor memory 197” contains anything that is “user defined.”

Therefore, for at least the reasons set forth above, Applicants respectfully submit that the cited portions of Berken at page 6, lines 5-9 and page 7, lines 15-19 do not teach, suggest, or disclose the feature of Applicants’ claim 22 that recites “a database having at least one entry comprising user defined call routing information and at least one associated destination address.”

Applicants appreciate recognition by the Office that “Berken does not explicitly disclose “a packet is a unit of information transmitted as a whole from one device to another over the network”, “destination”, “having at least one entry comprising user defined call routing information and at least one associated destination address”, “for use in voice call routing to cause delivery of voice to a called party”, and “according to a destination address of the called party and the database”.” See Office action at page 17.

In an effort to support the rejection of subject matter missing from Berken, the Office action then asserts, at page 18, that “machine address and stream address in table lookup” of FIG. 8, 9, 10, and “destination address (e.g., 924 (e.g. 2D) per FIG. 10),” of Richter’706, teach Applicants’ claimed “[database] having at least one entry comprising user defined call routing information,” and “at least one associated destination address [associated with the “user defined call routing information],” respectively, of Applicants’ claim 22. Notably, the Office does not specifically identify any text from Richter’706 that supports rejection of these features of Applicants’ claim 22 related to cited FIG. 8, 9, or 10.

The Office makes reference to “Table Lookup 98” of FIG. 8 of Richter’706. The text of Richter’706 makes only two references to this element, and nothing in Richter’706 teaches, suggests, or discloses that ref. 98 of FIG. 8 comprises “user defined routing information.” Instead, Richter’706 teaches that the contents of “table lookup 98” is determined “when the connection is being first opened and the connection negotiated between callers.” See *id.* at col. 10, lines 38-41. Richter’706 also teaches that routine “CPacketStream:: Write 90” will “look up in table 98 the destination address for each destination in the packet....” See *id.* at col. 11, lines 17-19. However, Richter’706 fails to say anything about “table lookup 98” comprising “user defined routing information,” as more fully recited by claim 22.

The Office also makes reference to “Table Lookup 818” of FIG. 9. The text of Richter’706 makes two references to ref. 818 of FIG. 9. Richter’706 teaches that “lookup table 818” is “filled in when each stream is established for keeping track of the destination of the various packets” and that “[t]he pseudo code 816 for the Write function 806 contains a reference to a lookup to table 818, which returns an address to CPacketStream B, 802.” See *id.* at col. 12, lines 22-28. Richter’706 is silent however, with regard to “lookup table 818” comprising “user defined routing information,” as required by claim 22.

In addition, the Office makes reference to “Table Lookup 922, 925” of FIG. 10. A search of Richter’706 reveals only two references to each of “table 922” and “table 925,”

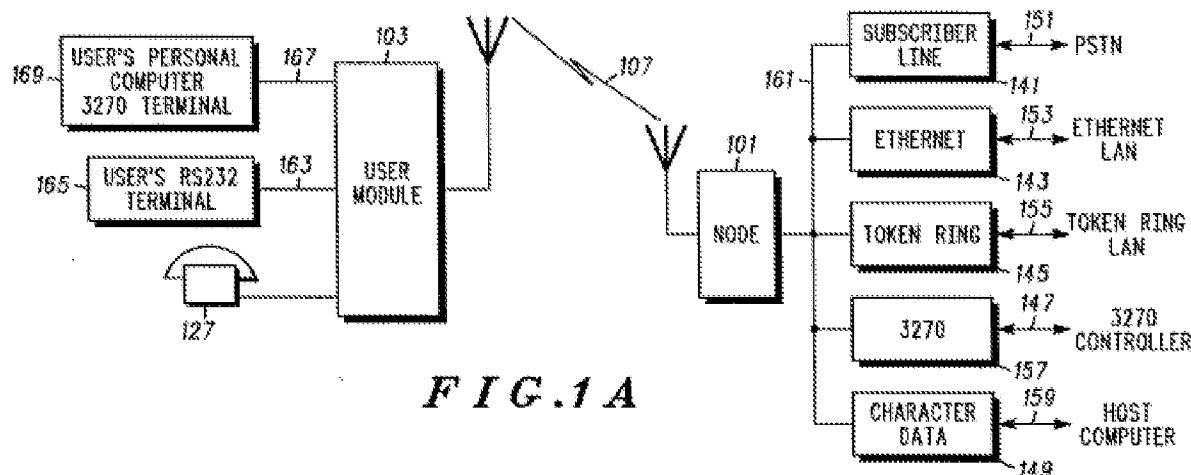
once each in the illustration of FIG. 10, and once each in the text of Richter'706 at col. 12, lines 34-52, which is reproduced below:

FIG. 10 illustrates the use of lookup tables to generate destination addresses from connection information between two given callers. By way of example, assume that CPacketStream A, 904 is a video stream connected to frame grabber 902 and image decompressor 912 at machine 1. A machine 2, CPacketStream D, 910 is also a video stream connected to a frame grabber 920 and image decompressor 918 at machine 2. Then, CPacketStream B, 906 is a connection stream coupled to a communication channel interface 914, such as for example a transmission source for an AppleTalk Data Streaming Protocol (ADSP) device. CPacketStream C, 908 is a connection stream coupled to a communication channel interface 916, shown as the receiving side of an AppleTalk Data Streaming Protocol device. Machine 1 uses table 922 to lookup the destination stream address 2,D for packets generated using data from video grabber 902. Similarly, machine 2 uses lookup table 925 to lookup the destination stream address 1,A for packets generated using data from video grabber 920.

The portion of Richter'706 shown above describes the elements of FIG. 10. This text from Richter'706 identifies ref. 922 simply as "table 922," does not provide further details about ref. 924, and describes ref. 925 simply as "table 925." Col. 12, lines 34-52 of Richter'706 explains that "machine 1" uses "table 922" to look up "destination stream address 2D" for packets generated using data from "video grabber 902" and that "machine 2" uses "lookup table 925" to look up "destination stream address 1A" for packets generated using data from "video grabber 920." Applicants respectfully submit, however, that neither the portion of Richter'706 shown above, seemingly the most related to the elements of FIG. 10 of Richter'706 identified by the Office, nor any other portion of text or illustration from Richter'706, teaches, suggests or discloses that any information in the "table 922" or in the "table 925," including cited ref. 924, is "user defined," let alone that it comprises "user defined call routing information" and "at least one associated destination address [associated with user defined call routing information]," as required by claim 22.

Therefore, Applicants respectfully submit that the Applicants have now demonstrated that Richter'706 does not remedy the admitted shortcoming of Berken recited by Applicants' claim 22, namely, "[a database] having at least one entry comprising user defined call routing information and at least one associated destination address." Because the Office has admitted that Berken does not teach at least this aspect of claim 22, and Applicants have now shown that Richter'706 also does not teach, suggest, or disclose at least this aspect of Applicants' claim 22, it necessarily follows that the proposed combination of Berken and Richter'706 cannot teach, suggest, or disclose at least this feature of claim 22. Applicants therefore respectfully submit that claim 22 is not rendered unpatentable by the cited art, and that claim 22 is allowable over the cited art for at least this reason. Applicants believe that claim 22 is allowable for at least an additional reason.

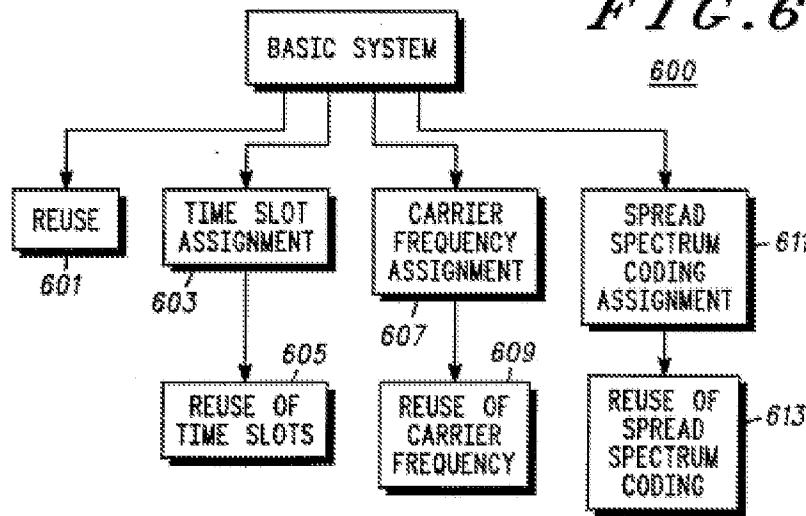
Applicants' claim 22 also recites, *inter alia*, "delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network." The Office asserts that this aspect of claim 22 is taught by Berken, citing Berken at FIG. 1A and FIG. 6. Although the Office does not specifically identify any text from Berken as supporting the rejection of this aspect of claim 22, the Office does identify Berken at FIG. 5 and FIG. 6, page 10, line 25 to page 11, line 5, and page 9, lines 15-25 as teaching "[delivery of voice to a called party by a user selected one of a circuit switched network and a packet based network] according to a information." See Office action at pages 16-17. Applicants now review the cited teachings of Berken, beginning with FIG. 1A, reproduced below:



Applicants respectfully submit that although FIG. 1A of Berken shows a "SUBSCRIBER LINE 141," "PSTN 151," "ETHERNET 143," and "ETHERNET LAN 153," there is nothing in FIG. 1A that teaches, suggests, or discloses "delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network." There is simply nothing in FIG. 1A that teaches user selection, as claimed. In addition, the Office fails to provide the required "explicit analysis" to explain how and why FIG. 1A teaches what is asserted. **Applicants respectfully request, should the Office choose to maintain the rejection, that the Office provide the required "explicit analysis" to provide a clear and detailed explanation of how and why the Office is interpreting the disclosure of Berken as teaching what is asserted.** Applicants now address the teachings of cited FIG. 6, reproduced below:

FIG. 6

600



Applicants respectfully submit that, according to Berken, “FIG. 6 illustrates multiple approaches 600 that can be used for dividing (or allocating) the bandwidth for the system.” Applicants respectfully submit that “dividing (or allocating) bandwidth” is quite different from and does not teach, suggest, or disclose “[delivery of voice to a called party] by a user selected one of a circuit switched network and a packet-based network,” as required by claim 22. The Office again fails to explain how this cited disclosure of Berken teaches what is asserted. The Office appears to recognize, however, that a user does not select the “one of a circuit switched network and a packet based network” in that the Office suggests that the selection is “by a wireless systems' request to select either circuit switched path for voice call to PSTN 151 (i.e. circuit switched network) or a packet switch path to Ethernet (i.e. packet switch network)....” (bold added) See Office action at pages 16-17. The Office does no assert that the “user” selects based on the “wireless system's request.” Therefopre, Applicants respectfully submit that FIG. 6 of Berken does not teach, suggest, or disclose, at least, a “**user selected one of a circuit switched network and a packet-based network**,” let alone “delivery of voice to a called party by a user selected one of a circuit switched network and a packet-based network.”

Applicants now turn to review Berken at cited page 10, line 25 to page 11, line 5. (The Office cited to “col. 11, line 5.” Applicants assume “page 11, line 5” was intended, in that Berken does not have numbered columns.) Page 10, line 25 to page 11, line 5 of Berken is reproduced below.

Using a time division multiple access (TDMA) scheme, the frame is divided into sections (groups of time slots), one transmit and one receive for the nodes . The nodes use their allocated portion of the frame to communicate with user modules and other nodes . As a node's requirement for bandwidth changes , its portion of the frame will increase or decrease as required . This change of the frame (time slot) allocation requires coordination between all of the nodes. When a request is made for voice information transfer, a time slot is allocated for the duration of the call -- this is known as a "circuit switched path". When a request is made for data information transfer, a time slot is allocated for a single frame or group of frames -- this is known as a "packet switched path".

When a module requires bandwidth, a time slot or group of time slots is assigned to that module for its use. When the module no longer requires the allocated bandwidth, the time slots are "freed -up" and are available for use by the next module requesting bandwidth.

The cited portion of Berken shown above explains the structure of the “frame” of Berken and the use of a “time division multiple access (TDMA)” scheme. It explains that “nodes” of Berken use their allocated portion of the frame to communicate with “user modules” and other “nodes” and that a node's allocation in the “frame” will change as a node's requirement for bandwidth changes, which requires coordination between all of Berken's nodes. In other words, Berken teaches that each “node” is allocated only a portion of the “frame” according to its bandwidth need, and that the entire frame is not used be any single “node” to communicate with any other “node.” While Berken refers to the allocation of a “time slot” for a call as a “circuit switched path,” Berken does not teach or suggest that a “user” selects anything, let alone “one of a circuit switched network and a packet based network,” in accordance with Applicants' claim 22.

Applicants respectfully submit that the portion of Berken cited by the Office fails to even teach, suggest, or disclose that the “request” for “voice information transfer” is by a user. For at least the above reasons, Applicants respectfully submit that the cited portion of Berken does not teach, suggest, or disclose a “user selected one of a circuit switched network and a packet based network,” as required by claim 22.

The Applicants now review the cited portion of Berken at page 9, lines 15-25, which are shown below:

This system allows for maximum spectral efficiency by allocating the required bandwidth to each of the users of the common communications path. As mentioned above, previous systems did not allocate the bandwidth on a need bases, but rather allocated the bandwidth at system start-up. As a result, this system takes advantage of the fast packet switching technology that allows both circuit and non-circuit connections to be made in the same system.

The control time slots are used for system control and bandwidth allocation. When a user module or interface unit requires voice or data bandwidth, it will use a predetermined control time slot to request bandwidth from the node. The node will allocate the bandwidth, if available, and notify the user module and interface unit of the bandwidth allocation via a predetermined control time slot. The user module and interface unit will use the bandwidth until it is no longer required. At that point, the user module and/or the interface unit will use a predetermined control time slot to send a de-allocation request to the node. The node will use a predetermined control time slot to acknowledge the de-allocation of the bandwidth to the user module and interface unit.

This cited portion of Berken teaches allocation of bandwidth to each of the users of a common communication path to allow both circuit and non-circuit connections to be made in the same system. Berken teaches the use by “user modules” or “interface units” of “control time slots” to request bandwidth, to receive notifications of bandwidth allocation, to request de-allocation of bandwidth, and to receive acknowledgements of bandwidth de-allocation. The cited portion of Berken at page 9, lines 15-25, shown above, does not, however, make any mention of user selection of anything, and does

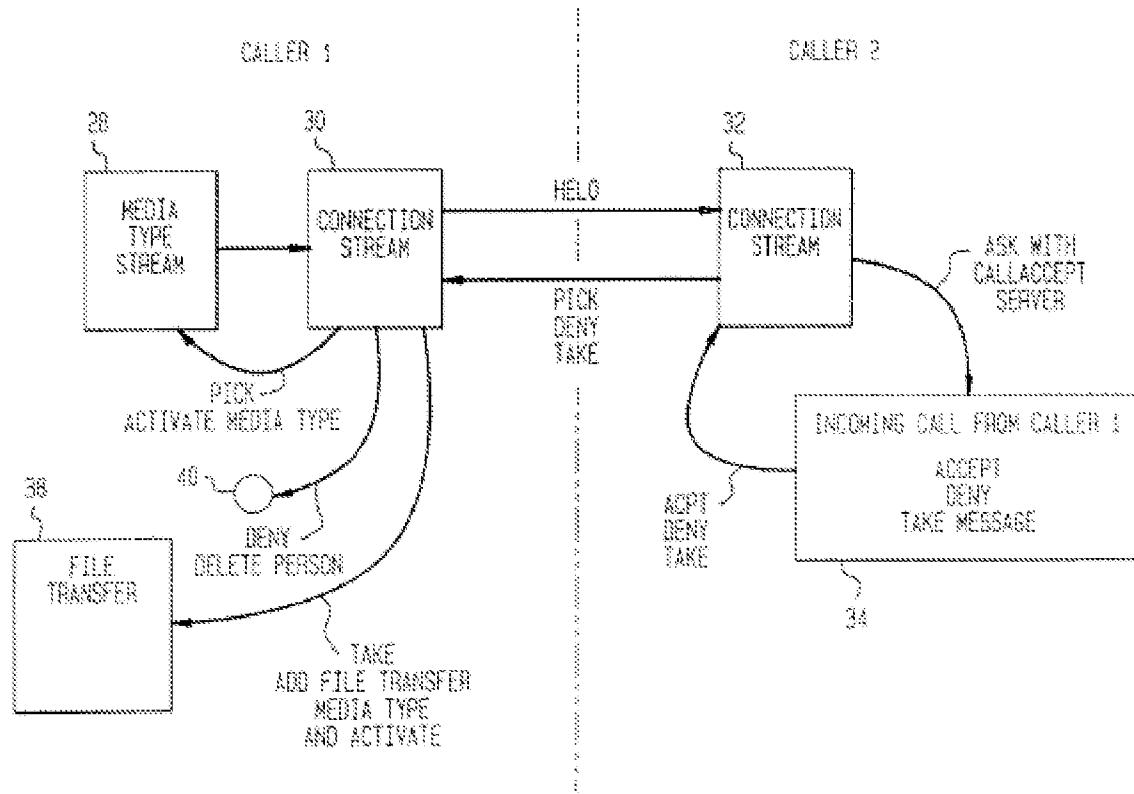
Appln. No. 10/701,865
Filed: November 5, 2003
Reply to Office action mailed February 1, 2010
Amendment filed June 1, 2010

not teach, suggest, or disclose that a user selects one of a circuit switched network and a packet based network for delivery of a voice call, as required by Applicants' claim 22. Applicants respectfully note that the Office again fails to provide the required "explicit analysis" detailing how and why the cited portion teaches what is alleged. **Should the Office choose to maintain the rejection, Applicants respectfully request that the Office document in detail, providing specific references to the illustrated elements and text of Berken relied upon, along with a detailed explanation of how and why the cited portion of Berken shown above is interpreted to teach what is being asserted, and particularly address the substance of Applicants' arguments.**

Therefore, based at least upon the above, Applicants respectfully submit that Berken does not teach, suggest, or disclose, at least "user selected one of a circuit switched network and a packet based network," as recited by claim 22. Applicants now address the portions of Richter'706 cited by the Office as teaching this aspect of Applicants' claim 22.

The Office identifies FIG. 4 and col. 11, lines 50-65 as teaching Applicants' claim 22 feature of a "user selected one of a circuit switched network and a packet based network." See Office action at page 18. FIG. 4 of Richter'706 is shown below:

FIG. 4



Applicants are unable to discern any teaching of “user select[ion]” of one of a circuit switched network and a packet based network,” in cited FIG. 4. Richter’706 describes FIG. 4 as “block diagram illustrating the sequence of operations for establishing a connection in a multiple media digital communication system.” See *id.* at col. 4, lines 45-47. Richter’706 provides additional details of the “sequence of operations” at col. 6, lines 9-43. There, Richter’706 discloses “user selection” as either “[c]aller 1 selects a media type stream 28, and a connection stream 30, suitable for the communication medium,” or “[i]f take a message was selected, then the appropriate file transfer 38 takes place to transmit an announcement file, and a message in requested to be sent back.” *Id.* at col. 6, lines 19-21 and lines 41-43.

Applicants respectfully submit that a “media stream” is very different than a “network.” With regard to the term “media type stream,” Berken teaches that a “media

type stream" may be a "video stream, an audio stream, a video and audio stream such as QuickTime, or a test/data/graphics stream," "other data required," and "file text" or "screen document." See *id.* at col. 6, line 34; col. 8, lines 57-64; col. 14, line 7. Berken does not teach, suggest, or disclose, however, that a "media type stream" may be a "circuit switched network" or a "packet based network."

Applicants respectfully submit that a "connection stream" is also very different than a "network." With regard to the term "connection stream," Berken teaches that a "connection stream" provides "the interface to the communication channel." Thus, the "connection stream" of Richter'706 is separate and distinct from a "communication channel." Richter'706 disclose "typical communication channels available on packet switched networks such as AppleTalk, from Apple Computer, California, USA, or Netware from Novell Inc, Oregon, USA." Thus, Richter'706 distinguishes a "communication channel" from a "network." Although Richter'706 discloses that a user may select a "connection stream," Applicants respectfully submit that, as demonstrated above, the "connection stream" of Richter'706 is quite different from a "network." Further, Applicants have been unable to discern where Richter'706 contains any teaching, suggestion, or disclosure, in the entirety of Richter'706, that the "connection stream" may be either a "circuit switched network" or "packet based network." Therefore, Applicants respectfully submit that selection of a "connection stream" does not teach, suggest, or disclose selection of one of a circuit switched network and a packet based network, as required by Applicants' claim 22.

Therefore, based at least upon the above, Applicants respectfully submit that Richter'706 does not teach, suggest, or disclose, at least, Applicants' feature "user selected one of a circuit switched network and a packet based network," as recited by claim 22. Applicants demonstrated above that Berken also does not teach, suggest, or disclose at least this aspect of claim 22. Because neither Berken **nor** Richter'706 teach, suggest, or disclose at least this aspect of claim 22, Applicants respectfully submit that the proposed combination of Berken and Richter'706 cannot, by definition, teach, suggest, or disclose at least this aspect of claim 22, that claim 22 is not rendered unpatentable by the cited art, and that claim 22, and any claims that depend therefrom,

are allowable over the proposed combination of Berken and Richter'706 for at least this additional reason. Applicants respectfully submit that claims 23-27 and 74 depend from independent claim 22 and are therefore also allowable over Berken and Richter'706. Accordingly, Applicants respectfully request that the rejection of claims 22, 25, and 26 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

With respect to independent claims 28, 29, 36, and 47, Applicants respectfully submit that those claims were rejected over the same proposed combination of Berken and Richter'706 citing the same portions of the references using the same rationale as set forth by the rejection of claim 22, and are therefore also allowable over the proposed combination of Berken and Richter'706 for at least the reasons set forth above. Further, because claim 75 depends from allowable claim 28, claims 30-35 and 76 depend from allowable claim 29, claims 37-42 and 77 depend from allowable claim 36, and claims 48-50 and 79 depend from allowable claim 47, Applicants respectfully submit that those claims are also allowable over the cited art, for at least the same reasons. Accordingly, Applicants respectfully request that the rejections of claims 28, 29, 32-34, 36, 39, 40, 41, 47, 50, and 57-59 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

IV. Berken And Richter'706 In Combination With Harrison, Weaver, Perkins, Cripps, And Dezonne Do Not Render Claims 23, 24, 27, 30, 31, 35, 37, 38, 42-46, 48, 49, 51-56, 74-80 Unpatentable

Claims 43 and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706 and Harrison. Claims 27, 35, 42, 51, and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706 and Weaver. Claims 23, 24, 30, 31, 37, 38, 48, and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken in view of Richter'706, and Perkins. Claims 44 and 45 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Harrison, and Perkins. Claims 52 and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Weaver, and Perkins. Claims 55 and 56 were rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, and Cripps. Claims 74-77 and 79 were

rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, and Dezonno. Claim 78 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Harrison, and Dezonno. Claim 80 was rejected under 35 U.S.C. §103(a) as being unpatentable over Berken, Richter'706, Weaver, and Dezonno. Applicants respectfully traverse the rejections.

With respect to independent claims 43 and 51, Applicants respectfully note that the rejections of claims 43 and 51 are based on Berken and Richter'706, that claims 43 and 51 recite language relating to the claimed "database" aspect that is similar to that recited by claims 22, 28, 29, 36, and 47, and that the Office relies on the same portions of Berken and Richter'706 and the same rationale in rejecting claims 43 and 51 as set forth in rejecting that aspect of claims 22, 28, 29, 36, and 47. Applicants have shown that the proposed combination of Berken and Richter'706 does not teach aspects common to claims 22, 28, 29, 36, 43, 47, and 51. Further, the Office has not asserted that Harrison, Weaver, Perkins, Cripps, and/or Dezonno, taken alone or in combination remedy the shortcomings of the Berken and Richter'706 references, set forth above. Therefore, Applicants respectfully submit that the Office has not shown that the proposed combinations of Berken and Richter'706, with Harrison, Weaver, or any of the other cited references, teaches, suggests, or discloses all aspects of Applicants claims 43 and 51, as required by M.P.E.P. §2142 and §2143.03. Therefore, Applicants respectfully submit that claims 43 and 51 are not rendered unpatentable by the cited art, and that claims 43 and 51, and any claims that depend therefrom, are allowable over the proposed combinations of references for at least the reasons set forth above.

With respect to claims 23, 24, 27, 30, 31, 35, 37, 38, 42, 44-46, 48, 49, 52-56, and 74-80, Applicants respectfully submit that claims 23, 24, 27, 30, 31, 35, 37, 38, 42, 44-46, 48, 49, 52-56, and 74-80 depend from independent claims 22, 28, 29, 36, 43, 47, and 51 that have been shown to be allowable over the cited art. Applicants respectfully submit that claims 23, 24, 27, 30, 31, 35, 37, 38, 42, 44-46, 48, 49, 52-56, and 74-80 are therefore also allowable for at least the reasons set forth above with respect to their respective independent claims 22, 28, 29, 36, 43, 47, and 51.

Therefore, for at least the reasons set forth above, Applicants respectfully request that the rejections of claims 23, 24, 27, 30, 31, 35, 37, 38, 42-46, 48, 49, 51-56, and 74-80 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

V. The Proposed Combination Of Weaver And Richter'706 Does Not Render Claims 22, 27-29, 32, 35, 36, 39, 42, 47, 50, 51, And 54 Unpatentable

Claims 22, 27-29, 32, 35, 36, 39, 42, 47, 50, 51, and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Richter'706. Applicants respectfully traverse the rejection.

With regard to independent claims 22, 28, 29, 36, 47, and 51, Applicants respectfully submit that the Office admits that "Weaver does not explicitly disclose "a packet is a unit of information transmitted as a whole from one device to another over the network", "destination", "a data base having at least one entry comprising user defined call routing information and at least one associated destination address, the database for use in voice call routing to cause delivery of voice to a called part by a user selected one of a circuit switched and a packet-based network according to a destination address of the called party and the database". See Office action at page 35.

Applicants respectfully submit that Berken and Weaver share many admitted shortcomings. *Compare* Office action at page 17 and Office action at page 35. In particular, the Office admits that both Berken and Weaver do not disclose, at least, "a packet is a unit of information transmitted as a whole from one device to another over the network," "destination," "[a database] having at least one entry comprising user defined call routing information and at least one associated destination address," "[the database] for use in voice call routing to cause delivery of voice to a called party," and "according to a destination address of the called party and the database."

In addition, Applicants have shown above that Berken and Richter'706 do not teach, suggest, or disclose, at least, "[delivery of voice to a called party] by a user selected one of a circuit switched network and a packet-based network," which is an admitted deficiency of Weaver. See Office action at page 35.

Applicants respectfully submit that the Office relies upon the same portions of Richter'706 to overcome admitted shortcomings of Weaver that are shared with Berken. Compare Office action at pages 35-37 and pages 17-18. Applicants have addressed the purported teachings of the cited portions of Richter'706 above, and have shown that Richter'706 does not teach what is asserted at least \with respect to the "database" aspects of Applicants claims 22, 28, 29, 36, 43, 47, and 51. Therefore, Applicants will not repeat those arguments again here.

Therefore, Applicants respectfully submit that the Office has not demonstrated that the proposed combination of Weaver and Richter'706 teaches, suggests, or discloses all aspects of claims 22, 28, 29, 36, 43, 47, and 51, for at least some of the reasons set forth above with respect to the teachings of Richter'706 in the rejection over the proposed combination of Berken and Richter'706. See Section III. That is, Applicants respectfully submit that the Office has not demonstrated that the proposed combination of Weaver and Richter'706 teaches, suggests, or discloses, at least, "[a database] having at least one entry comprising user defined call routing information and at least one associated destination address," "[the database] for use in voice call routing to cause delivery of voice to a called party," "[delivery of voice to a called party] by a user selected one of a circuit switched network and a packet-based network," and "according to a destination address of the called party and the database."

Based at least upon the above, Applicants respectfully submit that the Office has not established a *prima facie* case of obviousness with respect to claims 22, 28, 29, 36, 43, 47, and 51, in view of Weaver and Richter'706, as required by M.P.E.P. 2142, that claims 22, 28, 29, 36, 43, 47, and 51 are not rendered unpatentable by the cited art, and that claims 22, 28, 29, 36, 43, 47, and 51, and any claims that depend therefrom are allowable over the cited art. Accordingly, Applicants respectfully request that the rejection of claims 22, 27-29, 32, 35, 36, 39, 42, 47, 50, 51, and 54 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

VI. Weaver And Richter'706 In Combination With Harrison, Perkins, Cripps, And Honig Do Not Render Claims 23-26, 30, 31, 33, 34, 37, 38, 40, 41, 43-46, 48, 49, 52, 53, and 55-59 Unpatentable

Claims 23, 24, 30, 31, 37, 38, 48, 49, 52, and 53 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Richter'706 and Perkins. Claims 43 and 46 were rejected under 35 U.S.C. §103(a) over Weaver, Richter'706, and Harrison. Claims 44 and 45 were rejected under 35 U.S.C. §103(a) over Weaver, Richter'706, Harrison, and Perkins. Claims 25, 33, 40, and 55-59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Richter'706 and Cripps. Claims 26, 34, and 41 were rejected under 35 U.S.C. §103(a) as being unpatentable over Weaver in view of Richter'706 and Honig. Applicants respectfully traverse the rejections.

With respect to independent claim 43, Applicants respectfully note that the rejection of claim 43 recites language relating to the claimed "database" aspect that is similar to that recited by claims 22, 28, 29, 36, 47, and 51, and that the Office relies on the same portions of Weaver and Richter'706 and the same rationale in rejecting claim 43 as set forth in rejecting that aspect of claims 22, 28, 29, 36, 47, and 51. Applicants have shown that the proposed combination of Weaver and Richter'706 does not teach aspects common to claims 22, 28, 29, 36, 43, 47, and 51. Further, the Office has not asserted that Harrison, Perkins, Cripps, and/or Honig, taken alone or in combination remedy the shortcomings of the Weaver and Richter'706 references, set forth above. Therefore, Applicants respectfully submit that the Office has not shown that the proposed combination of Weaver and Richter'706, with Harrison, or any of the other cited references teaches, suggests, or discloses all aspects of Applicants claim 43, as required by M.P.E.P. §2142 and §2143.03. Therefore, Applicants respectfully submit that claim 43 is not rendered unpatentable by the cited art, and that claim 43, and any claims that depend therefrom, are allowable over the proposed combinations of references for at least the reasons set forth above.

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With respect to claims 23-26, 30, 31, 33, 34, 37, 38, 40, 41, 44-46, 48, 49, 52, 53, and 55-59, Applicants respectfully submit that claims 23-26, 30, 31, 33, 34, 37, 38, 40, 41, 43-46, 48, 49, 52, 53, and 55-59 depend from independent claims 22, 28, 29, 36, 43, 47, and 51, which have been shown to be allowable over the cited art, and are therefore also allowable for at least the reasons set forth above with respect to their respective independent claims 22, 28, 29, 36, 43, 47, and 51.

Therefore, for at least the reasons set forth above, Applicants respectfully request that the rejections of claims 23-26, 30, 31, 33, 34, 37, 38, 40, 41, 43-46, 48, 49, 52, 53, and 55-59 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

VII. Claims 60-73 Are Also Allowable

Applicants respectfully submit that claims 60-73 were rejected only under 35 U.S.C. §112, first paragraph. Applicants respectfully submit that the Office has not asserted that claims 60-73 are unpatentable over any combination of the art of record. In addition, Applicants have demonstrated that claims 22-81 are in compliance with 35 U.S.C. §112, first paragraph. See Section I. Therefore, Applicants respectfully submit that claims 60-73 are also allowable over the cited art.

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Conclusion

In general, the Office Action makes various statements regarding the claims and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicants believe that all of pending claims 22-80 define patentable subject matter and are in condition for allowance.

Should the Examiner disagree or have any questions regarding this submission, or have any suggestions to move the Application to allowance, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

The Commissioner is hereby authorized to charge any additional fees required by this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Dated: June 1, 2010

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